

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 389

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS SILVEY AND WALSH.

Read 1st time February 3, 2015, and ordered printed.

Read 2nd time February 24, 2015, and referred to the Committee on Governmental Accountability and Fiscal Oversight.

Reported from the Committee March 19, 2015, with recommendation that the bill do pass.

Taken up for Perfection April 8, 2015. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

1886S.01P

AN ACT

To repeal sections 34.040 and 136.055, RSMo, and to enact in lieu thereof two new sections relating to competitive bidding, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 34.040 and 136.055, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 34.040 and 136.055, to
3 read as follows:

34.040. 1. All purchases in excess of three thousand dollars shall be
2 based on competitive bids, except as otherwise provided in this chapter.

3 2. On any purchase where the estimated expenditure shall be twenty-five
4 thousand dollars or over, except as provided in subsection 5 of this section, the
5 commissioner of administration shall:

6 (1) Advertise for bids in at least two daily newspapers of general
7 circulation in such places as are most likely to reach prospective bidders and may
8 advertise in at least two weekly minority newspapers and may provide such
9 information through an electronic medium available to the general public at least
10 five days before bids for such purchases are to be opened. Other methods of
11 advertisement, which may include minority business purchase councils, however,
12 may be adopted by the commissioner of administration when such other methods
13 are deemed more advantageous for the supplies to be purchased;

14 (2) Post a notice of the proposed purchase in his or her office; and

15 (3) Solicit bids by mail or other reasonable method generally available to

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 the public from prospective suppliers. All bids for such supplies shall be mailed
17 or delivered to the office of the commissioner of administration so as to reach
18 such office before the time set for opening bids.

19 3. The contract shall be let to the lowest and best bidder. The
20 commissioner of administration shall have the right to reject any or all bids and
21 advertise for new bids, or purchase the required supplies on the open market if
22 they can be so purchased at a better price. When bids received pursuant to this
23 section are unreasonable or unacceptable as to terms and conditions,
24 noncompetitive, or the low bid exceeds available funds and it is determined in
25 writing by the commissioner of administration that time or other circumstances
26 will not permit the delay required to resolicit competitive bids, a contract may be
27 negotiated pursuant to this section, provided that each responsible bidder who
28 submitted such bid under the original solicitation is notified of the determination
29 and is given a reasonable opportunity to modify their bid and submit a best and
30 final bid to the state. In cases where the bids received are noncompetitive or the
31 low bid exceeds available funds, the negotiated price shall be lower than the
32 lowest rejected bid of any responsible bidder under the original solicitation.

33 4. **The director of the department of revenue shall follow bidding**
34 **procedures as contained in this section and may promulgate rules**
35 **necessary to establish such procedures. No points shall be awarded on**
36 **a request for proposal for a contract license office to a bidder for a**
37 **return-to-the-state provision offer.**

38 5. All bids shall be based on standard specifications wherever such
39 specifications have been approved by the commissioner of administration. The
40 commissioner of administration shall make rules governing the delivery,
41 inspection, storage and distribution of all supplies so purchased and governing
42 the manner in which all claims for supplies delivered shall be submitted,
43 examined, approved and paid. The commissioner shall determine the amount of
44 bond or deposit and the character thereof which shall accompany bids or
45 contracts.

46 [5.] 6. The department of natural resources may, without the approval
47 of the commissioner of administration required pursuant to this section, enter
48 into contracts of up to five hundred thousand dollars to abate illegal waste tire
49 sites pursuant to section 260.276 when the director of the department determines
50 that urgent action is needed to protect public health, safety, natural resources or
51 the environment. The department shall follow bidding procedures pursuant to

52 this section and may promulgate rules necessary to establish such
53 procedures. Any rule or portion of a rule, as that term is defined in section
54 536.010, that is created under the authority delegated in this section shall
55 become effective only if it complies with and is subject to all of the provisions of
56 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
57 nonseverable and if any of the powers vested with the general assembly pursuant
58 to chapter 536 to review, to delay the effective date or to disapprove and annul
59 a rule are subsequently held unconstitutional, then the grant of rulemaking
60 authority and any rule proposed or adopted after August 28, 1999, shall be
61 invalid and void.

62 [6.] 7. The commissioner of administration and other agencies to which
63 the state purchasing law applies shall not contract for goods or services with a
64 vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible
65 personal property or for the purpose of storage, use, or consumption in this state
66 but fails to collect and properly pay the tax as provided in chapter 144. For the
67 purposes of this section, "affiliate of the vendor" shall mean any person or entity
68 that is controlled by or is under common control with the vendor, whether
69 through stock ownership or otherwise.

136.055. 1. Any person who is selected or appointed by the state director
2 of revenue as provided in subsection 2 of this section to act as an agent of the
3 department of revenue, whose duties shall be the processing of motor vehicle title
4 and registration transactions and the collection of sales and use taxes when
5 required under sections 144.070 and 144.440, and who receives no salary from the
6 department of revenue, shall be authorized to collect from the party requiring
7 such services additional fees as compensation in full and for all services rendered
8 on the following basis:

9 (1) For each motor vehicle or trailer registration issued, renewed or
10 transferred--three dollars and fifty cents and seven dollars for those licenses sold
11 or biennially renewed pursuant to section 301.147;

12 (2) For each application or transfer of title--two dollars and fifty cents;

13 (3) For each instruction permit, nondriver license, chauffeur's, operator's
14 or driver's license issued for a period of three years or less--two dollars and fifty
15 cents and five dollars for licenses or instruction permits issued or renewed for a
16 period exceeding three years;

17 (4) For each notice of lien processed--two dollars and fifty cents;

18 (5) No notary fee or other fee or additional charge shall be paid or

19 collected except for electronic telephone transmission reception--two dollars.

20 2. The director of revenue shall award fee office contracts under this
21 section through a competitive bidding process. The competitive bidding process
22 shall give priority to organizations and entities that are exempt from taxation
23 under Section 501(c)(3) [or], 501(c)(6), **or 501(c)(4), except those civic**
24 **organizations that would be considered action organizations under 26**
25 **C.F.R. Section 1.501(c)(3)-1(c)(3)**, of the Internal Revenue Code of 1986, as
26 amended, **with special consideration given to those organizations and**
27 **entities that reinvest a minimum of seventy-five percent of the net**
28 **proceeds to charitable organizations in Missouri**, and political
29 subdivisions, including but not limited to, municipalities, counties, and fire
30 protection districts. The director of the department of revenue may promulgate
31 rules and regulations necessary to carry out the provisions of this
32 subsection. Any rule or portion of a rule, as that term is defined in section
33 536.010, that is created under the authority delegated in this subsection shall
34 become effective only if it complies with and is subject to all of the provisions of
35 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
36 nonseverable and if any of the powers vested with the general assembly pursuant
37 to chapter 536 to review, to delay the effective date, or to disapprove and annul
38 a rule are subsequently held unconstitutional, then the grant of rulemaking
39 authority and any rule proposed or adopted after August 28, 2009, shall be
40 invalid and void.

41 3. All fees collected by a tax-exempt organization may be retained and
42 used by the organization.

43 4. All fees charged shall not exceed those in this section. The fees
44 imposed by this section shall be collected by all permanent offices and all
45 full-time or temporary offices maintained by the department of revenue.

46 5. Any person acting as agent of the department of revenue for the sale
47 and issuance of registrations, licenses, and other documents related to motor
48 vehicles shall have an insurable interest in all license plates, licenses, tabs, forms
49 and other documents held on behalf of the department.

50 6. The fees authorized by this section shall not be collected by motor
51 vehicle dealers acting as agents of the department of revenue under section
52 32.095 or those motor vehicle dealers authorized to collect and remit sales tax
53 under subsection 8 of section 144.070.

54 7. Notwithstanding any other provision of law to the contrary, the state

55 auditor may audit all records maintained and established by the fee office in the
56 same manner as the auditor may audit any agency of the state, and the
57 department shall ensure that this audit requirement is a necessary condition for
58 the award of all fee office contracts. No confidential records shall be divulged in
59 such a way to reveal personally identifiable information.

Section B. Because of the need to ensure a fair bidding process for
2 contract license offices, section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace and safety, and is
4 hereby declared to be an emergency act within the meaning of the constitution,
5 and section A of this act shall be in full force and effect upon its passage and
6 approval.

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Bill

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